



Regional Policy Alternatives for Control of Ballast Water Invasive Species

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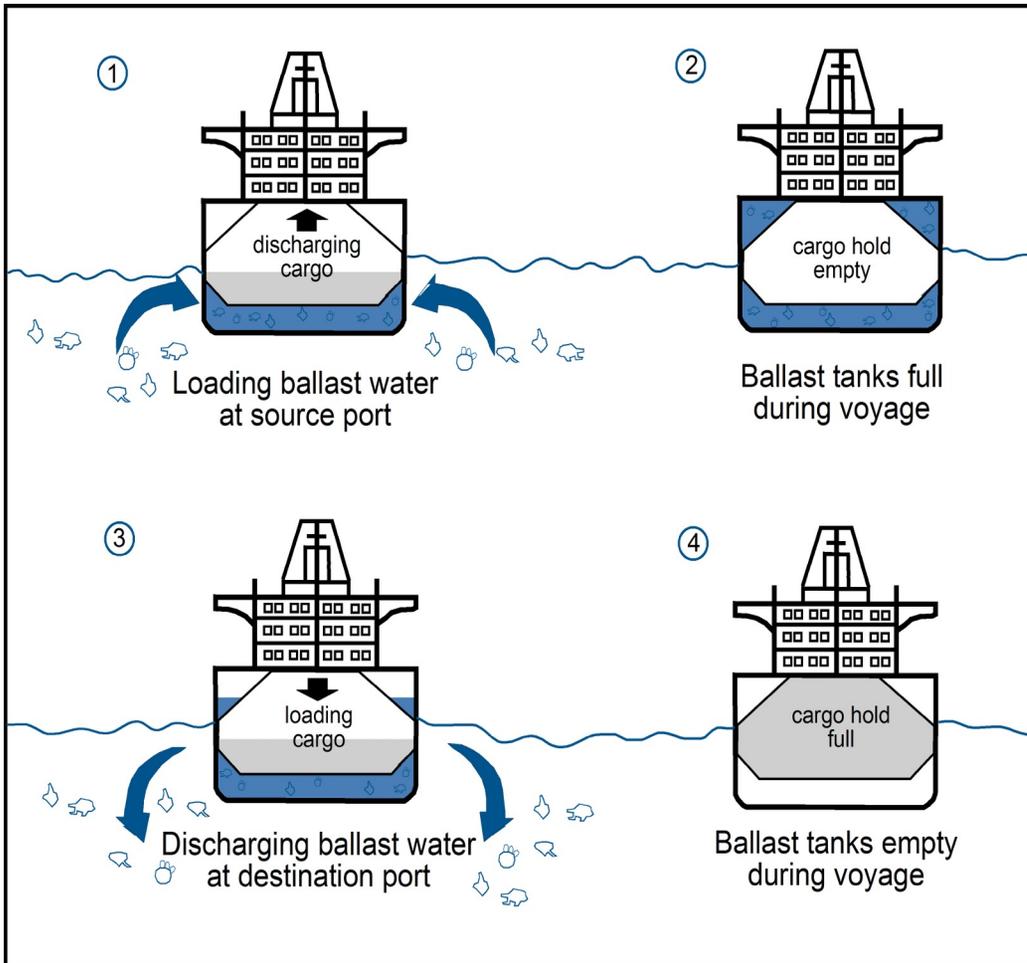


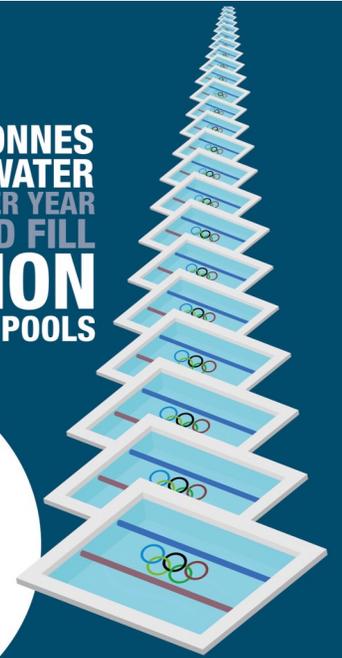
Image: NOAA/IMO

7000
Species transferred in ballast water every hour of everyday

10 BILLION TONNES OF BALLAST WATER TRANSPORTED PER YEAR WHICH WOULD FILL 4 MILLION OLYMPIC SIZED POOLS

1
NEW INVASION
EVERY
9
WEEKS

BALLAST
WATER IN
NUMBERS



2.4 BILLION PEOPLE
LIVE WITHIN **100KM** OF THE COAST

80%
OF WORLD TRADE CARRIED BY SHIPS

State of Play

Final Rule, 33 CFR Part 151 Subpart D	Vessel General Permit, 2013	Frank LoBiondo Coast Guard Authorization Act, Title IX “Vessel Incidental Discharge Act”, 2018	IMO’s Ballast Water Management Convention
<p>USCG</p> <p>Est. permanent requirements for the regulation of vessel discharge</p> <p>Mid-ocean ballast water exchange or other measures</p> <p>Measuring living organisms.</p> <p>Ballast Water reporting & recordkeeping (BWMR form)</p> <p>Penalties if BWM reports are not submitted</p>	<p>EPA</p> <p>2nd edition of VGP.</p> <p>Set of technology based & water-quality standards</p> <p>Enforce until VIDA is finalized.</p> <p>Patchwork of 25 states & 2 federal agencies issuing regulations</p>	<p>New legislation (EPA + USCG)</p> <p>Unified set of environmental standards. Render organisms nonviable*</p> <p>EPA: Federal standards of performance, NOV 2024**</p> <p>USCG: Enforcement/ Compliance protocol</p> <p>State authority for more restrictive BW discharge standards removed.</p> <p>Vessels operating in U.S. waters</p> <p>Great Lakes & Pacific Coast</p>	<p>Entered into force in 2017</p> <p>Global standards & procedures</p> <p>Set of technology based & water quality standards (D-2). Measuring viable organisms.</p> <p>International implementation by parties to the BWMC</p> <p>U.S. is not a member</p>

Resulting Issues of Current Legislation/VIDA

State Preemption/ Reduction of Power

- Stringency of Standardization Levels Restricted

Timeliness: regulatory lag time

- EPA regulations delayed since 2021
- Resulting uncertainty of final regulations

VGP, 2013 found inadequate

- *Natural Resource Defense Council v. United States Environmental Protection Agency*, 804 F.3d 149, 154 (2d Cir. Oct. 5, 2015)

One-size fits all regulation & management solution mentality

- 2020, G.L Governors formally reject proposed new federal standards
- 2023, *Center for Biological Diversity et al. v. Michael S. Reagan et al.*
U.S District Court for Northern District of California
\$9 billion in annual damages to US industry & coastlines

Retain authority to implement research, monitoring, & inspection programs

Table 2: State Authority Retained Under VIDA

Authority Retained	Parameters	Reference
<i>No Discharge Zones</i>	States can create no-discharge zones for incidental discharges.	(CWA §312(p)(10)(D))
<i>Emergency Orders for Invasive Species</i>	States Governors may petition the EPA and USCG to establish Emergency Orders for Invasive Species and Water quality concerns.	(CWA §312(p)(7)(A)(i))
<i>Modification of Standards</i>	Governors may petition the EPA to modify standards. Framework of this procedure is detailed in VIDA.	(CWA §312(p)(7)(A)(ii))
<i>Collection of Fees</i>	States assessing a fee relating to the regulation of ballast water discharge <i>before</i> the date of enactment of VIDA, may assess or retain a fee to cover the costs of administration, inspection, monitoring, and enforcement activities by the State. The fee is capped at \$1,000.	((VIDA, S.140-150 (9) (A)(iv))
<i>Inspection</i>	Inspection of vessels for compliance and enforcement of the federal ballast water management requirements.	(VIDA S.140-152 (F))
<i>Advance Report to States</i>	States may require the owner/operator of a vessel arriving into a port in their jurisdiction subject to VIDA to submit directly to the state ballast water management form.	(VIDA S. 140-171 (h) (2) (C))
<i>Great Lakes and Pacific Coast Region</i>	An additional regulatory process was established for the Great Lakes and Pacific Coast Regions through VIDA.	(VIDA S. 140- 152 (10) (A)) (VIDA S. 140-153 (10) (B)) (VIDS S. 140-159 (10) (C))

State Authority Retained Under VIDA

Unresolved Questions:

- How much deference will the EPA & USCG give state petitions?
- Cooperation framework between agencies?
- IMO D-2 standard does not consider the best available technology economically achievable, will this change in the revisions?

Response: Individual State Perspective

1. Designation of a responsible agency
2. Website communication
3. Vessel documents & record keeping
4. Onboard equipment inspection
5. Ballast water sampling
6. Funding
7. Enforcement
8. Regional cooperation

Response: Individual State Perspective

Table 6: Ballast Water Management Actions for Rhode Island

GAPS	ACTIONS
Rhode Island webpage	Create
Form for entry to RI waters	Establish protocol for vessel's electronic filings; review for compliance
Records aboard or associated with vessel	Establish list of forms and key items for inspection
Onboard equipment inspection	Adopt protocol for equipment identification
Ballast water sampling and analysis	Adopt federal system and consider state protocol
Funding	Establish/ Procure
Ballast water no discharge zones	Identify areas excluded from incidental discharge
Enforcement	Observe federal actions such as USCG MSIB notifications and EPA fines

Response: Potential for Regional Cooperation in N.E

Logistical:

- Most vessels make multiple port calls in the NEANS region

Financial:

- Shared burden

Operational:

- Shared burden
- Increased & enhanced information flow

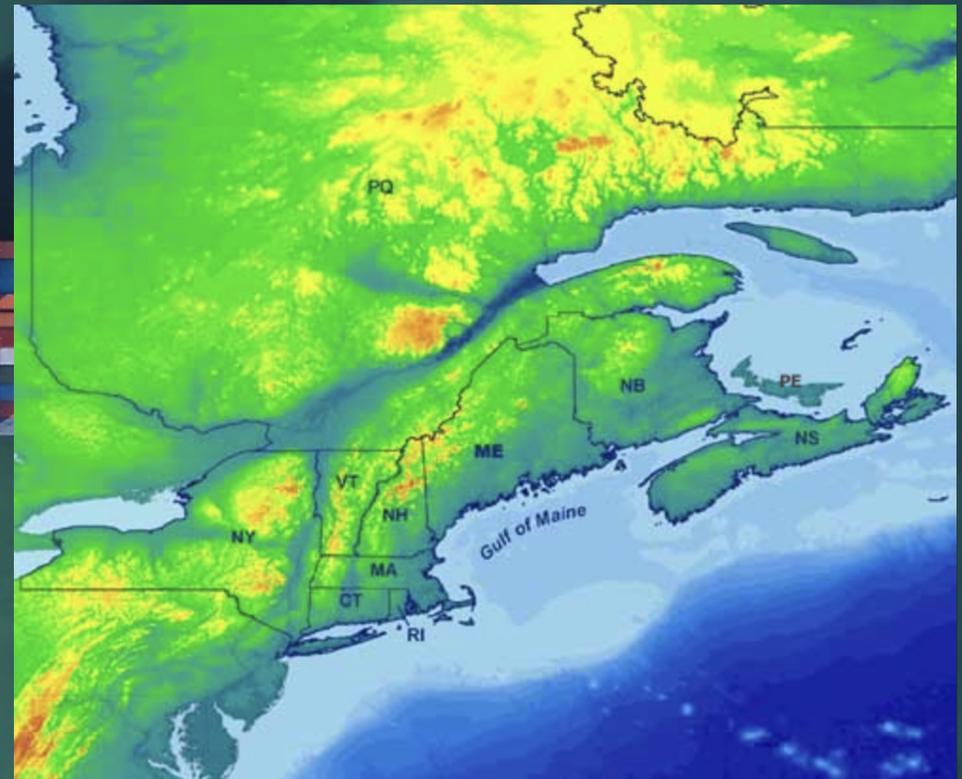


Image: NEANS

Institutional Bodies & Responsibilities

Regulation & Policy Makers	EPA, USCG
Compliance with Regulations	USCG- monitor & inspect ships' compliance during Port State Control exams
Ballast Water Management Systems/Technology Testing & Type Approval	USCG and USCG approved independent laboratories
Enforcement	USCG- Letters of Warning, Notices of Violation, Civil Penalties

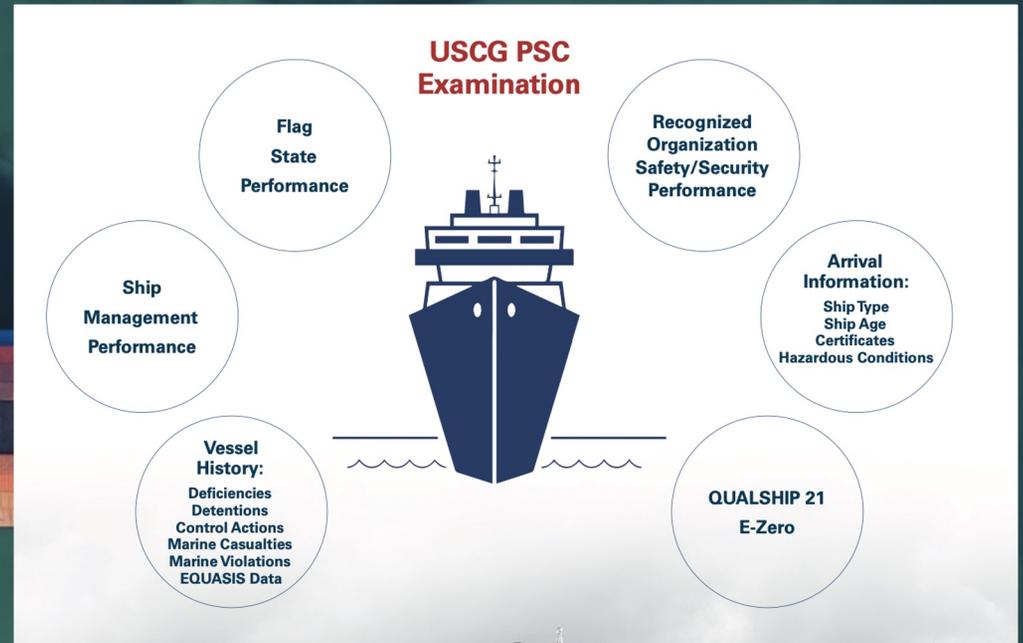


Image: USCG, PSC 2022 Annual Report

2022 Port State Control Statistics By Region

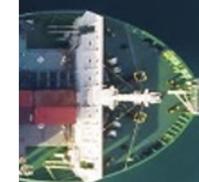
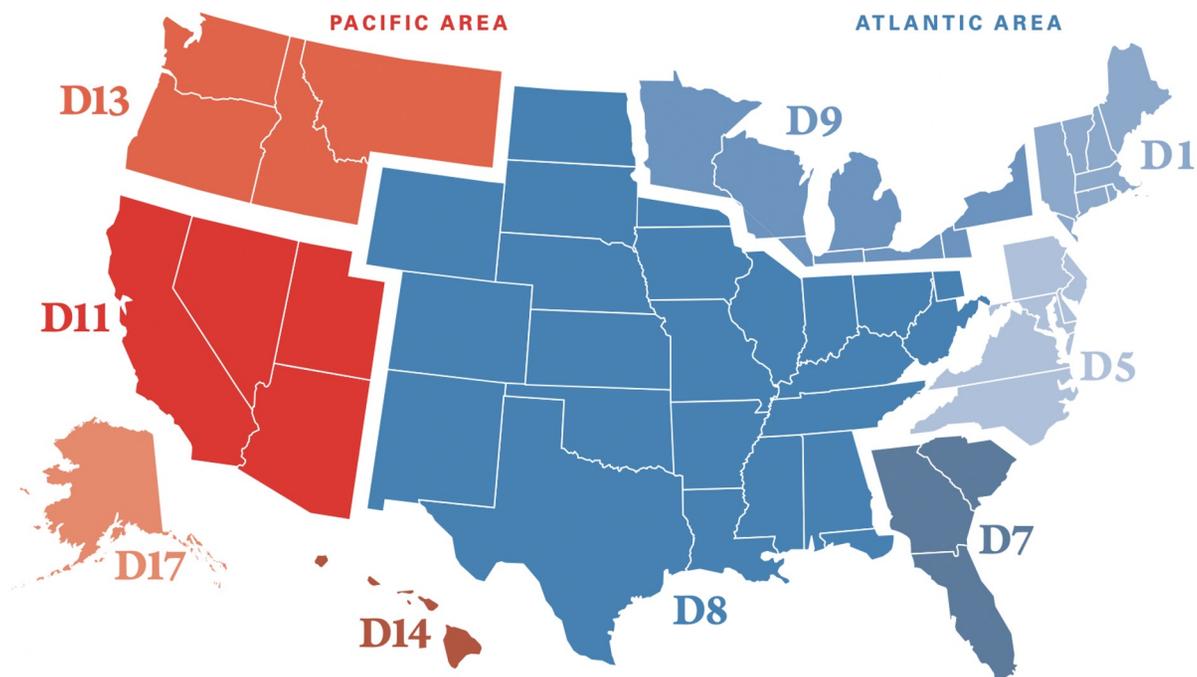


Image: USCG, PSC 2022 Annual Report

<https://www.dco.uscg.mil/Portals/9/DCO%20Documents/5p/CG-5PC/CG-CVC/CVC2/psc/AnnualReports/annualrpt2022.pdf>

District	Ship Visits	PSC Examinations Conducted	Detentions
1st	7,187	926	6

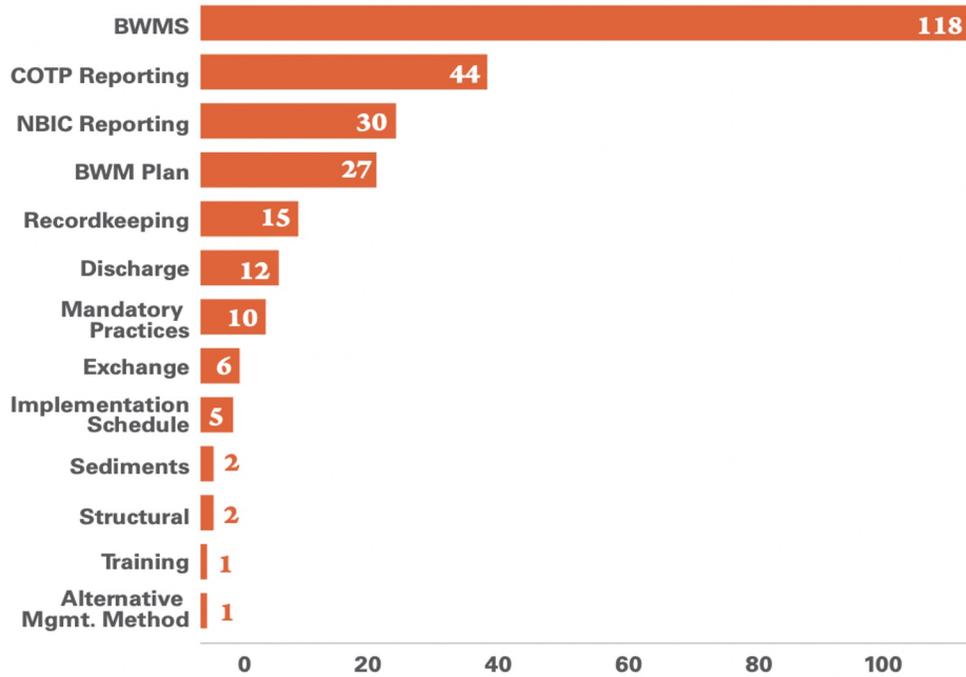
2022 Summary of N.E Vessels Engaged in Coastwise Transit & BW Exchange

	Overseas Transit	Coastwise Transit	Total Vessels 2022	% of Vessels Engaged in Coastwise Transit
CT	69	448	517	87%
MA	156	769	925	83%
ME	89	443	532	83%
NH	19	97	116	84%
NY*	1,231	2,109	3,340	63%
RI	158	557	715	78%

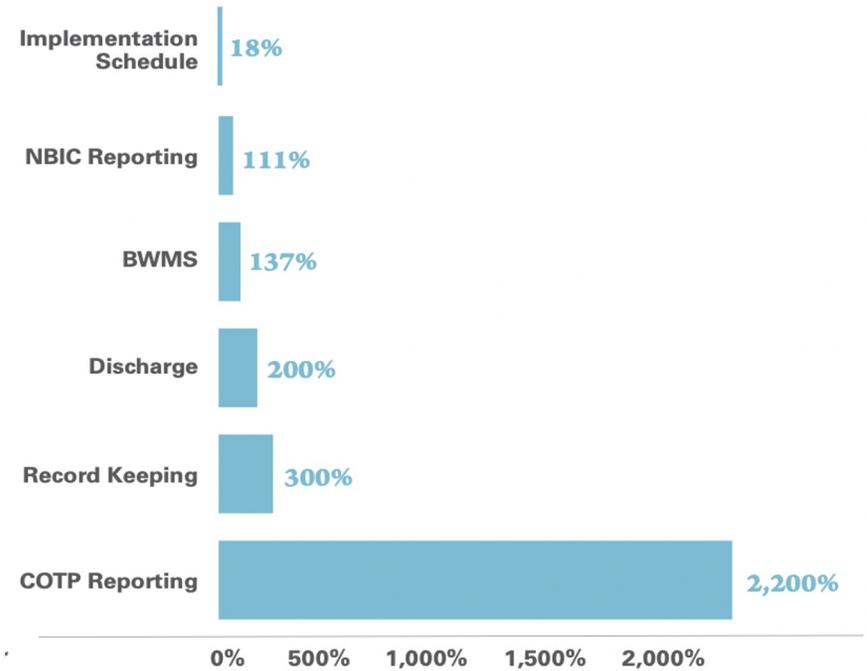
	Discharging Ballast	Not Discharging Ballast	Total Vessels 2022	% of Vessels Discharging
CT	56	461	517	11%
MA	51	874	925	6%
ME	34	498	532	6%
NY	749	2591	3,340	22%
NH	10	106	116	9%
RI	70	645	715	10%

Data Source | <https://invasions.si.edu/nbicdb/>

2022 Ballast Water Deficiencies



Annual Trend in Ballast Water Deficiencies



Individual State Perspective

High Medium Low No potential

	State* Priority	Potential For Regional Collaboration
Designation of a responsible agency		
Website communication		
Vessel documents & record keeping		
Onboard equipment inspection		
Ballast water sampling		
Funding		
Enforcement		
Regional Cooperation		

Northeast Aquatic Nuisance Species Panel
Spring Meeting
May 23-24, 2023
Providence, Rhode Island

Highlights from Rhode Island Marine Environment

Develop and Implement a State Ballast Water Management Plan for Rhode Island

Task 6B) The CRMC will implement the operational tasks necessary to prevent/minimize the risk of AIS introductions from ballast water into the state's coastal waters.

1. develop content for ballast water webpage on CRMC website
2. develop form for entry to Rhode Island waters
3. establish means to collect/review vessel electronic forms on file with federal agencies
4. develop vessel inspection protocols from ship contact through record keeping
5. coordinate with RIDEM to establish no incidental discharge zones in state waters
6. develop list of equipment required to conduct on board ballast water inspection
7. establish a regional ballast water work group under the NEANS Panel

Questions *for* NEANs Panel-





Thank you!

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